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State of California—Health and Human Services Agency
Department of Health Care Services



GAVIN NEWSOM
GOVERNOR

DATE: April 13, 2020

BEHAVIORAL HEALTH INFORMATION NOTICE NO.: 20-010

TO: California Alliance of Child and Family Services
California Association for Alcohol/Drug Educators
California Association of Alcohol & Drug Program Executives, Inc.
California Association of DUI Treatment Programs
California Consortium of Addiction Programs and Professionals
California Council of Community Behavioral Health Agencies
California Opioid Maintenance Providers
California State Association of Counties
California Tribal Chairpersons
Coalition of Alcohol and Drug Associations
County Behavioral Health Directors
County Behavioral Health Directors Association of California
County Drug & Alcohol Administrators
Indian Health Program Executive Directors

SUBJECT: Obligations Related to Indian Health Care Providers in Drug Medi-Cal Organized Delivery System (DMC-ODS) Counties.

PURPOSE:

This Behavioral Health Information Notice is to remind DMC-ODS counties of their obligations to reimburse Indian Health Care Providers for the provision of DMC-ODS services. DMC-ODS counties are obligated to reimburse Indian Health Care Providers even when the provider is not contracted with the county, and DMC-ODS counties are obligated to contract with an adequate network of Indian Health Care Providers.

This Information Notice also provides guidance concerning the required reimbursement rates for Urban Indian Organizations and Tribal 638 providers or Indian Health Service (IHS) facilities. Urban Indian providers must be reimbursed at the Drug Medi-Cal Fee-for-Service (FFS) rate or a negotiated rate for the delivery of DMC-ODS services. Tribal 638 providers or IHS facilities must be reimbursed at the all-inclusive rate for the delivery of DMC-ODS services.

DEFINITIONS:

American Indian/Alaska Native (AI/AN) – Any person defined in 25 United States Code sections 1603(13), 1603(28), or section 1679(a), or who has been determined eligible as an Indian under 42 CFR section 136.12.

Indian Health Care Provider (IHCP) – A health care provider operating on behalf of the IHS, an Indian Tribe, Tribal Organization, or Urban Indian Organization as those terms are defined in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603). This term includes Tribal 638 Providers and Indian Health Service facilities.

Tribal 638 Providers - Federally recognized Tribes or Tribal organizations that contract or compact with the Indian Health Service (IHS) to plan, conduct and administer one or more individual programs, functions, services or activities under Public Law 93-638. Tribal 638 providers must appear on the “List of American Indian Health Program Providers” set forth in APL 17-020¹, Attachment 1 in order to qualify for reimbursement as a Tribal 638 Provider under this IN.²

Urban Indian Organizations - Nonprofit corporate body situated in an urban center, governed by an urban Indian controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 1653(a) of U.S. Code: Title 25, Chapter 18.

BACKGROUND:

The DMC-ODS program provides a continuum of care for substance use disorders pursuant to a waiver approved by the Centers for Medicare & Medicaid Services. California counties participating in the DMC-ODS (DMC-ODS counties) provide an array of services including those listed in Welfare and Institutions Code section 14124.24(a)(1) through (6), and those authorized by the DMC-ODS. DMC-ODS counties are considered Pre-Paid Inpatient Health Plans (PIHPs) for purposes of federal law through intergovernmental agreements with the Department of Health Care Services (DHCS).

¹ APL 17-020 is available at: <https://www.dhcs.ca.gov/formsandpubs/Pages/AllPlanLetters.aspx#2017>

² Attachment 1 is available at https://www.dhcs.ca.gov/formsandpubs/Documents/MMCDAPLsandPolicyLetters/APL2017/APL17-020_Att1.pdf.

All PIHPs, including DMC-ODS counties, must comply with applicable requirements set forth in 42 CFR Part 438, including 42 CFR 438.14, which describes PIHP obligations in relation to IHCPs and AI/ANs. These duties are further incorporated into the DHCS/County DMC-ODS intergovernmental agreements.

DMC-ODS counties are required to reimburse for the provision of DMC services, including the expanded range of DMC-ODS services, through the county's Behavioral Health Subaccount of the Support Services Account of the Local Revenue Fund 2011, and any other available county funds (see Welf. & Ins. Code section 14124.24(a)(6) and Welf & Ins. Code section 14124.24(c)(1)). In addition, in accordance with 2011 Realignment and as part of the State/County DMC-ODS intergovernmental agreement, counties participating in DMC-ODS generally³ take on full financial responsibility for obligations related to DMC-ODS services.

In order to receive reimbursement for the provision of DMC-ODS services, an IHCP must be certified by DHCS to provide those services.

DISCUSSION

The following are some key obligations of DMC-ODS counties with respect to IHCP reimbursement and the rights of AI/AN enrollees.

Medi-Cal AI/ANs Are Entitled to Receive Services from Out-of-Network IHCPs

All Medi-Cal AI/AN individuals living in a DMC-ODS County may choose to receive DMC-ODS services at any DMC-certified IHCP, whether or not the IHCP has a current contract with the county where the beneficiary lives. DMC-ODS counties must reimburse DMC-certified IHCPs for the provision of these services, even if the DMC-ODS county does not have a contract with the IHCP. The county may choose to contract with IHCPs for the care of non-AI/AN individuals and, if they do, the IHCP reimbursement obligations below apply.

Services that can be Provided are Dependent on the Beneficiary's County of Residence

IHCPs in DMC-ODS counties may provide services to Medi-Cal beneficiaries residing in other counties:

- If the out-of-county beneficiary resides in a DMC-ODS county, the IHCP can provide the out-of-county beneficiary all DMC-ODS services available under their county of residence's DMC-ODS intergovernmental agreement with the State. In

³ While there are state general fund obligations for certain DMC-ODS services and populations, counties are reimbursed for any expenditures incurred on the state's behalf through the CPE process.

this scenario, the county of residence is responsible for reimbursement in accordance with the guidance below.

- If the beneficiary resides in a non-DMC-ODS county, the IHCP may only provide services authorized by California's Medicaid State Plan. In this scenario, the IHCP must contract with either the beneficiary's county of residence or bill the State to receive reimbursement for the provision of State Plan services.

DMC-ODS Counties Must have Sufficient IHCPs Participating in Provider Network

DMC-ODS counties must contract with a sufficient number of IHCPs to ensure that AI/AN beneficiaries in the county can access DMC-ODS services at an IHCP. This requirement is set forth in federal law and is incorporated into the State/County DMC-ODS intergovernmental agreement. (see 42 CFR 438.14(b)(1) and DMC-ODS Contract, Exhibit A, Attachment 1, Section II(B)(4)(i)).

IHCP Reimbursement Obligations

If the IHCP providing DMC-ODS service is an Urban Indian Organization, the DMC-ODS county must reimburse the IHCP at a rate negotiated between the county and the IHCP or, in the absence of a negotiated rate, at the DMC FFS rate or the rate paid to a contracted FQHC.

If the IHCP providing DMC-ODS services is a Tribal 638 provider or an IHS facility, the California Medicaid State Plan sets forth specific criteria governing the reimbursement rate to which Tribal 638 Providers are entitled.⁴ If the services are provided by one of the health professionals identified in the California Medicaid State Plan, and if the service does not exceed the three daily visit limit set forth in Supplement 6, the IHCP is entitled to the all-inclusive rate published in the Federal Register.⁵

The rates that a DMC-ODS county must pay to either an Urban Indian Organization or a Tribal 638 will vary if the beneficiary has Medicare, Part B.

⁴ The relevant State Plan pages are available at:

<https://www.dhcs.ca.gov/formsandpubs/laws/Documents/Supplement6toAttachment4.19-B-REVISED MAY.pdf>.

The relevant Provider Manual sections are available at: http://files.medi-cal.ca.gov/pubsdoco/publications/masters-mtp/part2/indhealth_o01o03.doc.

⁵ The 2019 IHS all-inclusive rate is available in the Federal Register at:

<https://www.govinfo.gov/content/pkg/FR-2019-02-06/pdf/2019-01181.pdf>, PIHPs are responsible for monitoring the Federal Register for future updates to the annual IHS all-inclusive rates published by IHS.

Processing and Paying IHCP Claims

To initiate payment, IHCPs must submit claims to the DMC-ODS County of a beneficiary's residence in accordance with the county's claiming requirements. The rate on the claim should reflect the rate the IHCP should be paid for the service in accordance with the guidance above. If the rate claimed is incorrect for any reason, the amount due to the IHCP from the DMC-ODS County shall be consistent with the guidance in this notice.

Claims from IHCPs must be paid in accordance with the timeliness requirements in 42 CFR §§ 447.45 and 447.46.

Examples

- An AI/AN residing in Orange County (a DMC-ODS county) receives a covered DMC-ODS service from a Tribal 638 provider or an IHS facility in Riverside County. The Tribal 638 provider or IHS facility can submit a claim to Orange County and be reimbursed at the IHS all-inclusive rate even though the provider is not in the Orange County DMC-ODS network.
- An AI/AN residing in San Luis Obispo County (a DMC-ODS County) receives a covered DMC-ODS service from an Urban Indian Provider FQHC in Santa Barbara County. The Urban Indian Provider can submit a claim to San Luis Obispo County using a rate negotiated between the county and the IHCP or, in the absence of a negotiated rate, the DMC FFS rate or the rate paid to a contracted FQHC.
- An AI/AN residing in any county (whether or not the county participates in the DMC-ODS) receives a medication prescription, administration, or management services from a physician, physician assistant, or nurse practitioner for opioid use disorder treatment (i.e. receives primary care-based buprenorphine and naltrexone treatment) from a Tribal 638 provider or IHS facility that is not part of a narcotic treatment program. These services would qualify as a medical visit as described in California's Medi-Cal State Plan Supplement 6, Attachment 4.19-B,⁶ and therefore the AI/AN's physical health managed care plan (in the beneficiary's county of residence) would be responsible for payment in accordance with the requirements described in APL 17-020.

⁶ The relevant State Plan Amendment is available at:

<http://www.dhcs.ca.gov/formsandpubs/laws/Documents/Supplement6toAttachment4.19-B-REVISED MAY.pdf>

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An AI/AN that resides in a county not participating in the DMC-ODS can only receive DMC State Plan services from providers under contract with that county. Residents of counties not participating in the DMC-ODS do not have access to the expanded set of DMC-ODS services, and only have access to services within the California's Medicaid State Plan. IHCPs cannot receive reimbursement for providing services only available in DMC-ODS counties to beneficiaries who do not live in DMC-ODS counties.

If you have questions, please contact DHCS DMC-ODS at DMCODSWAIVER@dhcs.ca.gov.

Sincerely,

Kelly Pfeifer, M.D.
Deputy Director
Behavioral Health